

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. CR 19-201
)	Green Bay, Wisconsin
vs.)	
)	September 18, 2020
MASON O. BEAUDRY,)	1:29 p.m.
)	
Defendant.)	

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE WILLIAM C. GRIESBACH
UNITED STATES SENIOR DISTRICT JUDGE

APPEARANCES VIA ZOOM:

For the Government:	United States Dept of Justice (ED-WI) By: DANIEL R. HUMBLE Office of the US Attorney - 205 Doty St - Ste 301 Green Bay, WI 54301 Ph: 920-884-1066 Fax: 920-884-2997 Daniel.Humble@usdoj.gov
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For the Defendant MASON O. BEAUDRY: (Present)	Federal Defender Services of Wisconsin Inc By: Krista A. Halla-Valdes 801 E Walnut St - 2nd Floor Green Bay, WI 54301 Ph: 920-430-9900 Fax: 920-430-9901 krista_halla-valdes@fd.org
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TRANSCRIPT OF PROCEEDINGS

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THE CLERK: Court calls Case No. 19-CR-201, United States of America vs. Mason O. Beaudry for a sentencing. May I have the appearances, please?

MR. HUMBLE: Dan Humble for the government. Good afternoon, Your Honor.

THE COURT: Good afternoon.

MS. HALLA-VALDES: Good afternoon, Your Honor. Krista Halla-Valdes on behalf of Mason Beaudry. Mr. Beaudry is present and appearing via Zoom at this hearing.

MR. KOEHLER: Good afternoon, Your Honor. Brian Koehler on behalf of Probation.

THE COURT: Okay. Where is Mr. Beaudry? He's at his home or where?

THE DEFENDANT: Yes.

MS. HALLA-VALDES: He is at his home.

THE COURT: Okay. And this, of course, is a Zoom hearing which requires the defendant's consent, first of all. After discussion with his attorney, and I think you filed a motion indicating you had held such a discussion, Ms. Halla-Valdes?

MS. HALLA-VALDES: Yes, Your Honor, I did.

Just to add, this morning Mr. Beaudry emailed me and

1 his friend that he had direct contact with earlier this week
2 tested positive for COVID as well. So he is in a
3 self-quarantine mode as of today. I just wanted to add that as
4 another reason, but I had filed the motion as well.

5 THE COURT: Okay. Mr. Beaudry, that's correct, you
6 talked to your attorney and consent to appearing by video
7 instead of a live hearing in court; is that right?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Okay. And I'll also find that further
10 delay would seriously interfere or harm the interests of
11 justice.

12 And that's really because we need to move on. We
13 don't know how long the pandemic will last. The chief judge has
14 found that live appearances, live courtroom appearances
15 seriously endanger public health. So rather than just postpone
16 this indefinitely, it seems to me we need to move forward.

17 So that said, Mr. Beaudry is before the Court today
18 for sentencing for the crime of felon in possession of a
19 firearm. This is a violation of 18 U.S.C. § 922. The maximum
20 penalty is 10 years in prison, the maximum fine is \$250,000.

21 I have, of course, the presentence report prepared by
22 Mr. Koehler. I also have a sentencing memorandum from the
23 defense, as well as a supplement to the sentencing memorandum.

24 We postponed this sentencing when we were here last at
25 the government's request because it had received information

1 about a possible new offense, or at least information relevant
2 to the sentencing determination when we were last here, and my
3 understanding from the supplementation, Mr. Humble, is that that
4 evidence really kind of fell apart, there's not much there. Is
5 that a fair statement?

6 MR. HUMBLE: Yes.

7 THE COURT: There was a hearing involving his
8 significant other that was found not to reveal any evidence of
9 either possession of firearms or domestic violence.

10 MR. HUMBLE: Yes. It was filed that morning of the
11 last sentencing hearing, so obviously I felt an obligation to
12 check it out, but it appears that it turned into nothing
13 relevant for today's proceedings.

14 THE COURT: Okay. So, Mr. Humble, are you in
15 agreement with the factual statements set forth in the
16 presentence report then?

17 MR. HUMBLE: Yes.

18 THE COURT: And the guideline calculation, are you in
19 agreement with that?

20 MR. HUMBLE: Yes.

21 THE COURT: And, Ms. Halla-Valdes, you've gone over
22 the presentence report with your client?

23 MS. HALLA-VALDES: I have, Your Honor.

24 THE COURT: Any objections to the factual statements
25 in the report?

1 MS. HALLA-VALDES: No, Your Honor.

2 THE COURT: And are you in agreement with the
3 guideline calculation that's recommended?

4 MS. HALLA-VALDES: I am, Your Honor.

5 THE COURT: So I will adopt then the factual
6 statements in the presentence report as my findings of fact.

7 I will also adopt the recommended guideline analysis
8 which places the offense level at a 17, criminal history
9 category is III, resulting guideline range is between 30 months
10 and 37 months. So that'll be the starting point in the
11 sentencing determination.

12 Mr. Humble, what is the government's recommendation?

13 MR. HUMBLE: Your Honor, the government's going to
14 recommend a sentence of 30 months.

15 With regard to the nature and circumstances of the
16 offense, the Court's well aware this is a serious offense.
17 Essentially what happened to --

18 THE COURT: 30 months? What did you say?

19 MR. HUMBLE: 30 months.

20 THE COURT: 30 months. Go ahead.

21 MR. HUMBLE: As the Court's aware, this is a serious
22 offense. It's a classic straw-buying situation between the
23 defendant and Mr. Cardenas. The defendant had Mr. Cardenas
24 purchase that firearm and 100 rounds of ammunition at the time
25 those individuals were engaging in the trade of marijuana, the

1 sale of marijuana from the residence. The Court's well aware of
2 the inherent danger to mixing drugs and guns.

3 The defendant's history is two prior felony drug
4 convictions within the past five years. On supervision he has
5 not been successful.

6 As the Court's aware based on Mr. Koehler's filings,
7 the defendant had a recent incident while on pretrial release on
8 September 7th where the officer stopped him in the car at two
9 different times. Probation asked him to come in and provide a
10 drug test and he failed to do so.

11 The need for deterrence here I think is strong with
12 regard to specifically this defendant, but also the public at
13 large. Obviously for a long time my office and the courts have
14 been taking seriously these types of straw purchases and
15 prosecuting felons in possession of firearms, and there's a need
16 to send that message to the public that we take this seriously.

17 And I think a sentence of 30 months, which is at the
18 lowest end of the guideline, takes into account the fact that he
19 did promptly enter a guilty plea here. But I do think, given
20 the serious nature of the offense and his past record, 30 months
21 is an appropriate prison sentence, Your Honor.

22 THE COURT: All right. Thank you, Mr. Humble.

23 Ms. Halla-Valdes?

24 MS. HALLA-VALDES: Your Honor, I filed a sentencing
25 memorandum and I am asking for probation. I provided a number

1 of reasons why I think probation is appropriate in this case.
2 And then I filed a supplement because I wanted it to be clear
3 that Mr. Beaudry was not alleged to have any other contact with
4 weapons recently and that there was not incidents of domestic
5 violence.

6 I still believe that a sentence of probation is
7 appropriate. I believe that for a number of reasons. The first
8 is mostly because this is an offense where Mr. Beaudry had
9 limited contact with the gun. At the time he was living with
10 Juan Cardenas, he was using marijuana, I don't know that there
11 was any proof of sale of marijuana. He was absolutely using and
12 he admitted to that. He couldn't buy the gun. He did speak
13 with his roommate/friend Mr. Cardenas. He gave the money to
14 Mr. Cardenas to purchase the gun, but both of them actually used
15 it. Both of them went to the shooting range and used it.

16 Mr. Cardenas, in fact, was the person who was going to
17 hold onto it. If you look at the police reports, the fact is
18 that the gun was kept at a coworker's of Mr. Cardenas.
19 Mr. Beaudry did not even know who the coworker was or where it
20 was located. It was Mr. Cardenas who provided that information
21 to the police.

22 So I think while it is true that Mason spoke with
23 Mr. Cardenas, Mr. Beaudry spoke with Mr. Cardenas about
24 purchasing the gun, I think the fact is that both of them had
25 the intent of using it and both of them did use it when they

1 went to the shooting range to use it.

2 That gun wasn't used in any additional criminal
3 activity. It was located at the coworker's home where
4 Mr. Cardenas said it would be.

5 Mr. Beaudry, when he was approached by police and
6 arrested in August, admitted to the fact that he had shot the
7 gun at the range. I think, in fact, what he told the police was
8 if you want to watch, you can get the video and watch. I used
9 it at the range. I handled it, you know, in the manner it was
10 supposed to be. And that was the only place that it was ever
11 shot.

12 And that's the extent of what the offense involves
13 here. He is a felon, he knows he is a felon, and he knows he
14 can't possess guns. What I don't think Mr. Beaudry was aware of
15 is just how serious this was. I think that became very clear
16 when he was arrested not only by the state, but more so when he
17 was called in to federal court.

18 He was arrested in August of last year by the State.
19 He paid a bond and was released. He followed through on the
20 conditions of release, and then he was indicted here.

21 He showed up for arraignment November 19th. It was a
22 notice to appear and he showed up in person. He was released on
23 conditions and he's been out just about a year straight. Or,
24 no, just about 10 months on those pretrial release conditions.

25 I believe that he has been compliant. I understand

1 the government says that he was asked to come in and do a drug
2 test and he hadn't done that. That was after September 7th. I
3 am not -- honestly, Your Honor, I'm not aware of the entirety of
4 that situation.

5 But Mr. Beaudry has been working and has -- for the
6 most part he lives at home now with his mother and he's been
7 there providing care for his son. He sees his son on a daily
8 basis. His son is River.

9 And I think when one reads the presentence
10 investigation report, one notices that Mr. Beaudry, through the
11 statements made by his mother but also through the letters of
12 family, has been very much been involved in his son River's
13 life. He sees him on a daily basis. He's there right now, in
14 fact, his son. His son is taking a nap.

15 And although he has had struggles with River's mother
16 in the past, the fact is that he hasn't had those more recently.
17 She has been -- they have been in a good place in terms of
18 allowing Mr. Beaudry to have that daily contact with him.

19 And I think one of the things that speaks to that
20 probably more than anything else is the fact that River's
21 grandmother on the mother's side submitted a letter, and in that
22 letter she speaks to the fact that Mason is a good father and
23 how River is very much connected to his father and how this
24 would have a detrimental impact on River were he not to have and
25 that connection not to stay.

1 And when I think that someone -- you know, this isn't
2 his own mother, this is the mother of the -- his significant
3 other -- or ex significant other because they are no longer
4 together -- and she says that, I really do think that it's
5 something that is confirmation that, in fact, it's true.

6 And I say that because I think when all of the letters
7 are looked at together, it is clear that Mr. Beaudry has been
8 very active in River's life. For Mr. Beaudry I think that has a
9 lot to do with the fact that he felt abandoned by his own
10 father. His mother speaks to that in the PSR.

11 And the fact is that he also speaks to that in terms
12 of his acceptance of responsibility statement. Now that he is
13 in his son's life and he is there on a daily basis, sees him
14 seven days a week, the last thing he wants to do is abandon his
15 son or his son to feel that he is been abandoned by Mason.

16 For those reasons I think Mason has done what he can
17 to stay very active in his father's -- in his son's life.

18 I also think one of the big reasons is because he now
19 has this career. Yes, he had worked previously, but now he's at
20 the point where he is working his way up the ladder to becoming
21 an apprentice to a welder. He's working through Tweet Garot.
22 He's been working there for a while now, since May actually, and
23 he is really one step away from becoming an apprentice.

24 And that's important to Mason. Mason has worked there
25 since May. He previously had worked at other locations doing

1 similar work, but this is where he believes that he can stay.
2 He was placed there by the local union and he believes that this
3 is a career for him. Welding, of course, is a good-paying
4 career, it's a career that Mason knows he can live financially,
5 be independent and be financially stable. And that's important
6 to him because he wants to provide for not only himself but,
7 more importantly, for his son.

8 The other thing that he wants to do is go back to
9 court and establish joint custody with his son's mother. He has
10 not done that. The biggest reason is because he was waiting for
11 this to be resolved so that he would know what was going to
12 happen to him before he set up any sort of visitation or any
13 sort of him spending the nights with Mason. So I believe based
14 on those reasons the fact is that probation is a good
15 sentence -- or is sufficient but not greater than necessary.

16 The last thing I do want to talk about is the fact
17 that -- well, there's two things and then I'll get to that.
18 Mason was previously on supervision by the State in 2016. He
19 was discharged from that. He received probation. And he was
20 discharged from that and he had no issues with compliance.

21 He also -- his previous times in jail he was allowed
22 to do Huber, so he was allowed to still work. And I think
23 that's evident by the fact that he also is up to date I think
24 with a small -- and I don't know if the arrearage has been paid
25 off more recently -- but for the most part he's up to date on

1 his child support. He's shaking his head yes, so I think the
2 whole arrearage has since been paid off. But all of that is
3 because he's been allowed to continue through on the career that
4 he's doing right now.

5 The last thing I want to talk about, Judge, is the
6 fact that in this situation I think when the Court has to
7 consider a sentence that is sufficient but not greater than
8 necessary to accomplish the goals of sentencing, I think the
9 Court has to acknowledge the fact that sentencing is different
10 now because of COVID. Especially right now. Incarcerating a
11 client right now means that they are at a higher risk of getting
12 COVID. But also, when one looks at the type of time that
13 they're going to do in custody, it's much more oppressive.

14 And what I mean by that is, for the most part my
15 clients have very much indicated that they do not have access to
16 communication. It is very hard for me to have communication
17 with them. It is very hard for them to have communication out.

18 The people that I have the most communication with are
19 those who have CorrLinks, and that is not established usually in
20 the beginning when they get into a prison.

21 Also, there is no programming going on right now.
22 There has not been programming going on for the past since
23 March. So that means that everyone sits, does idle time.
24 They're not working, with the exception of some of the people go
25 and still work in the kitchen. But other than that, for the

1 most part my clients have indicated that they are not allowed to
2 leave their dorm area.

3 This is a dorm area where there is not social
4 distancing. This is a dorm area where they are not given any
5 sort of personal PPEs, where they do not have face masks. This
6 is an area where they, in fact, are staying, and the fact is
7 there's a heightened risk for COVID.

8 And unfortunately we still don't know what COVID does
9 to people. Everyone reacts differently. Even if Mason does not
10 have one of the acknowledged comorbidities, the fact is that
11 there are people out there that don't have it and still end up
12 on ventilators and still end up in very serious conditions.

13 So I think when one looks at sentencing right now,
14 that is something that has to be considered. And I think when
15 one looks at the fact that the Bureau of Prisons still has only
16 tested approximately one-third of the individuals in their
17 custody, testing one-third means there's two-thirds that aren't
18 tested. It's shocking that while the DOC demanded everyone be
19 tested, and while universities are having everyone tested, the
20 BOP still believes that testing one-third is sufficient. It's
21 also shocking that they don't require tests of their staff. So
22 that means that there are people out there that clearly aren't
23 tested and possibly spreading the virus.

24 And that's what makes the BOP and the situation within
25 the prison so dangerous because the numbers reflect it. The

1 fact is that even with only testing one-third, there's been over
2 13,500 positive cases. It's close to 30 percent. That's a high
3 number. And they haven't tested the other staff and they
4 haven't tested the other inmates.

5 So, Your Honor, I think that all goes into how a
6 sentence would be served at this time and I think that that
7 needs to be considered.

8 I also think one of the goals of sentencing is
9 vocational and educational training. The fact is that
10 Mr. Beaudry, Mason, has a job. He really does not need
11 vocational and educational training, but if going to jail it
12 would really mean him sitting dead time and doing nothing.

13 That is certainly not something that is worth -- I
14 think in terms of he would be a lot more -- it would be a bigger
15 benefit to society and the community having him out there
16 working, paying his child support, and providing care to his son
17 than sitting and doing dead time in a dorm where he could
18 possibly run the risk of getting COVID.

19 For those reasons, Your Honor, I do think probation is
20 appropriate. I think the fact is that it is sufficient but not
21 greater than necessary to meet the goals of sentencing. I would
22 ask for probation. If he messes up, if he screws up, the judge,
23 you always have, the Court always has the option of putting him
24 in at a later time. And I think that that puts it in his hands.

25 If some further form of punishment is needed, I would

1 ask for home confinement rather than any time in custody.

2 Again, that alleviates the concerns regarding COVID. It also
3 allows him to continues working and it allows him to be in his
4 son River's life.

5 That is all I have, Your Honor.

6 THE COURT: Thank you.

7 Mr. Beaudry, anything you want to say before I impose
8 a sentence? Can't hear you, you gotta unmute.

9 THE DEFENDANT: Sorry. Am I good?

10 THE COURT: Yes.

11 THE DEFENDANT: Okay. I would just like to say that
12 my biggest goal here is to be that father figure that I didn't
13 have growing up. I do -- I pride myself on being a dad and I
14 pride myself on the work that I do to provide for my son. I
15 just refuse to be the dad that I didn't have. He left when I
16 was I wanna say seven years old, and so I haven't had him in my
17 life for decades now. And he tries to -- he tries to insert
18 himself back into my life to this day, and I just don't feel
19 that it's appropriate for him to have that permission I guess on
20 my behalf because he chose to leave me, you know, when I was
21 seven years old. So I feel why should I give him the benefit of
22 speaking with me. Not only that, but he's had five other
23 children. So I have five step-siblings as well that all got
24 taken by CPS. Every last one of them got taken by child
25 services. Why, I don't know. But, you know, I don't want to be

1 that -- I don't want to be him. I refuse to be that man.

2 I work, I take care of my son daily, I do everything I
3 can to make sure he's okay, to make sure the mother of my son is
4 okay, you know. I do everything that I possibly can to make
5 sure that he's okay.

6 You know, I understand what I did is wrong. I take
7 full responsibility for my actions. I'm not going to lessen --
8 I'm not going to lessen the extent of the crime committed. But
9 I will say in my defense, I guess I didn't understand the real
10 precautions of something like this happening. So I didn't have
11 full understanding of what I was -- I knew what I was doing, I
12 just didn't understand the full extent of the trouble that I
13 could be in.

14 And I take full responsibility for my actions. I
15 can't blame that on nobody but myself. You know, it was me that
16 did it. I can't -- I have to take responsibility as a man for
17 my son, for myself, for my family. I have to take
18 responsibility.

19 And I -- you know, the last probation that I was on I
20 successfully completed. I paid my probation dues and I got off
21 successfully. In fact, my last probation officer's name was
22 Krista Grubley (sp), her and I got along great. And that's who
23 successfully discharged me from the probation for the state
24 anyways. That was on the state level.

25 And with that being said, I just want to continue my

1 career. And I feel that incarceration would be very detrimental
2 for my job. Like Krista said, I do want to become a welder and
3 I'm taking the proper steps in order to do so. You know, I go
4 to work, they send me in the field so I can get some field
5 experience. You know, they send me to different locations, to
6 different shutdowns and stuff of that nature.

7 In fact, I was in Manitowoc the other week building
8 COVID pods, in fact. So pods that individuals with COVID are
9 designed to stay in and sleep so if you are -- if you are
10 diagnosed with COVID, they put you in these pods actually and
11 you are to live there until your quarantine is up. And I was in
12 Manitowoc working on a job like that.

13 I was in Oconto Falls working on a boiler room. You
14 know, I'm learning a lot in my job. And from high school this
15 is what I have I've wanted to do. And I feel with the company
16 that I currently work at, this is my opportunity to do so and
17 this is my opportunity to provide for my son.

18 I did make a mistake. It's been a year since that
19 mistake has been made. And I've taken corrective action. I
20 don't associate with the individuals that I used to associate
21 with.

22 My main focus is my son. From sun up to sun down, my
23 son is my main focus. And I would just -- that's -- that's -- I
24 would just like to leave it there. That's all I have to say for
25 you, Your Honor. Thank you.

1 THE COURT: All right, thank you.

2 When was your son born, Mr. Beaudry?

3 THE DEFENDANT: He was born in September 10th, 2018.
4 He just turned two last week Thursday.

5 THE COURT: What were you doing out on September 7th?

6 THE DEFENDANT: I was on my way home from a friend's
7 house and I actually had an incident where the week prior to
8 that, I wanna say it was one week prior, I fainted. I don't
9 know the cause. I actually have to go see a medical doctor for
10 it because the orthopedic specialist said they couldn't handle
11 it there. I had fainted and I scuffed up my eye. It's healed
12 now. You can't really see it now. But I fainted walking out a
13 Subway and I landed on my face and shoulder. I don't know what
14 the cause of it was. I felt completely normal walking into the
15 Subway.

16 And that particular situation that night I felt that
17 happening. So I pulled over and I believe that's what happened,
18 I had fainted and I -- you know, and I think I have to go see a
19 medical doctor. I'm not sure what's wrong with me. And that
20 caused me to actually miss work for a week because I sprained my
21 shoulder when I had fallen.

22 THE COURT: Then an hour or two later you're again
23 found in your car passed out?

24 THE DEFENDANT: Yes. I should have just walked home
25 is what I should have done. I didn't want -- and this case has

1 been eating me alive. I just -- my sleep schedule has been so
2 messed up, I --

3 THE COURT: Why didn't you report -- why didn't you
4 report to probation for a drug test after you were told to on
5 the --

6 THE DEFENDANT: That Friday, so I had an orthopedic
7 specialist meeting. And then my sister had my vehicle because
8 she wanted to make it to my son's birthday party. So she had my
9 vehicle.

10 That being said, I called him, I left him a voicemail
11 indicating the situation that I couldn't make it, you know,
12 Friday, and I told him to give me a call back and to be in touch
13 with me and I had never received a -- you know, I had never
14 received a phone call back from him.

15 THE COURT: Mr. Koehler, did you receive a call that
16 you didn't return?

17 MR. KOEHLER: I did receive a voicemail from
18 Mr. Beaudry after I had already left the office for the day.

19 THE COURT: Did you try to get back to him?

20 MR. KOEHLER: I did not, Your Honor.

21 THE COURT: Okay. Anything else you wanna say?

22 THE DEFENDANT: Just --

23 THE COURT: I've heard quite a bit so --

24 THE DEFENDANT: Yeah, basically I should probably go
25 get checked by an actual doctor. Currently I have to -- I don't

1 know if this was stated, but I have to self quarantine myself
2 right now because I was in direct contact with the COVID virus
3 from one of my friends. So now I found that out, I actually
4 have to contact my employer and let them know and I have to get
5 retested again.

6 THE COURT: Okay. Now, I'm looking at your record,
7 Mr. Beaudry, and on August -- well, August 25th, '15 you were
8 arrested at age 19. On April 22nd, 2016 you were sentenced for
9 two counts of -- or manufacture, delivery of THC and possession
10 of narcotic drugs. You received four years probation, 100 days
11 jail. Your probation was revoked less than a year later. And
12 you were given 12 months jail, each count consecutive.

13 THE DEFENDANT: Yes.

14 THE COURT: So that's two years from 3/19/17. When
15 did you get -- when did you complete your jail sentence there?

16 THE DEFENDANT: I wanna say the exact day was
17 September 3rd, 2018, because I believe it was one week previous
18 to my son being born. It was -- actually was one week I think
19 prior to my son's birth. I think that's the exact date of my
20 release. And then I had to finish -- and then I still had
21 probation left to finish which I hadn't completed.

22 THE COURT: And your probation was completed when?

23 THE DEFENDANT: When was it completed? I wanna say --

24 THE COURT: After completion of your -- I mean, if
25 your probation was revoked --

1 THE DEFENDANT: April 29 -- what's that?

2 THE COURT: April 29th of 2019?

3 THE DEFENDANT: Oh, when my probation was revoked?

4 THE COURT: I guess your probation was revoked on
5 March --

6 THE DEFENDANT: No, no, my probation was revoked
7 from -- March of when?

8 THE COURT: I see. No, your probation was revoked on
9 your felony offense on March 9th of 2017, but you also had the
10 --

11 THE DEFENDANT: Yes.

12 THE COURT: -- possession of THC second offense in
13 2016. You did two years of probation on that, 90 days jail.
14 You were discharged from that on March 23rd, 2019.

15 So, what, six months later --

16 THE DEFENDANT: Yes.

17 THE COURT: -- less than six months later you're
18 buying a gun at Fleet Farm through your friend. And according
19 to your friend you're also selling pot out of the house?

20 THE DEFENDANT: No, that --

21 THE COURT: When your son was a year old?

22 THE DEFENDANT: Currently -- well, currently he's two
23 now, yes, sir. Yes, sir, he's two now.

24 THE COURT: I guess -- okay. You know, in arriving at
25 a sentence I look at the guideline range, and here it's 30 to 37

1 months. That's the starting point. But then I look at the
2 nature and circumstances of the offense and the history and
3 character of the defendant and then I try to fashion a sentence
4 that meets the goals of imposing just punishment, that's
5 punishment that reflects the seriousness of the offense, it
6 promotes respect for the law.

7 I look at the need for deterrence. You know, part of
8 what courts do, part of what the law does it sends a message.
9 The message is not only to be sent to Mr. Beaudry but to others
10 that, look, when you're told you may not own a gun because you
11 forfeited your right to own a gun or possess a gun because of
12 your prior conviction, that's a serious matter. You don't
13 ignore that and go out and buy a gun or have a friend buy a gun.

14 And I think given the damage and the carnage that's
15 done with guns these days, most people are crying out for
16 significant penalties for people that violate our -- the gun
17 laws we have. In fact, people want more laws beyond what we
18 have now. So at the very least they're asking is that we
19 enforce the ones that do exist.

20 Another purpose of sentencing is protection of the
21 public from further crimes of the defendant. And then lastly,
22 of course, is rehabilitation.

23 Looking first at the nature and circumstances of the
24 offense, you didn't go out and buy a hunting gun, hunting rifle,
25 you bought a handgun, a .9 millimeter handgun. You knew you

1 weren't supposed to own it. When you were shooting it in the
2 firing range you wore gloves to keep your fingerprints off it.
3 You had a friend buy it with your money. Your friend got
4 nothing out of it other than you involved him in a serious crime
5 and now he's got a conviction as well.

6 And this was such a short time after your release --
7 after your probation is discharged. You know, I understand
8 somebody that asks for probation when they're a first offense.
9 But you're not only not a first offense, but you had a chance
10 for probation. You got relatively, you know, 100 days jail with
11 work release, I'm sure. And you didn't even complete that, you
12 got revoked. And then you get 12 months consecutive on each
13 count again with work release, and it seems to have had no
14 effect because you went right back to this conduct.

15 And I don't -- you know, the idea I didn't appreciate
16 the seriousness of it, maybe you didn't know what would happen,
17 but you certainly knew it was illegal, you knew it was wrong.
18 Anybody that looks around today knows that dealing with firearms
19 is a serious matter.

20 And the fact that you had a friend buy it, wore gloves
21 when you shot it, kept it at someone else's home tells me you
22 were aware of the risk you were taking.

23 So I find the offense serious, I find your culpability
24 great. I don't -- you know, I certainly recognize, Mr. Beaudry,
25 really your passion. And I think it's good. Using your son as

1 a goal, as a focus, as a motivation for you, I mean, he's more
2 than that, he's a human being. He deserves more than being just
3 someone's motivation. He deserves what you want to give him.
4 But what you really haven't given him because you were released
5 before his birth and you went back to this behavior so soon
6 afterward.

7 But I don't -- I mean, recognizing that, that's past,
8 you can't undo it, but when you say I take full responsibility,
9 I think part of that is also I accept the punishment that I
10 deserve.

11 Now, I'm taking into consideration COVID that your
12 attorney mentioned. I also am taking into consideration what I
13 think is your sincere desire -- I hope it's sincere. I don't
14 know of course, but you sound sincere. And to me you have every
15 reason to be sincere in wanting to be a better man, to be a
16 father to your son.

17 It's a privilege to have a son. You were lucky to
18 have a son. And you ought to be doing everything you can to
19 make up to your son the fact that you can't be there every day;
20 that you don't have a closer relationship to his mother; that
21 you are now -- you know, put yourself in a position where you're
22 going to be away from him.

23 But I'm not going to -- I understand the government's
24 recommendation for 30 months, it's not unreasonable, but I'm
25 going to go significantly below that. I'm going to impose a

1 sentence of a year and a day. And with good time it's probably
2 closer, your attorney can tell you, I assume it's closer to 11,
3 10 months, something like that. And they might let you out --
4 they might even let you out earlier on some sort of halfway
5 house. I don't know, that's Bureau of Prisons.

6 But when I look at this record I have to impose a
7 sentence, it seems to me, that gives some punishment for this.
8 And I recognize that this is -- you know, you were hoping --
9 one, I don't think you should say, well, I can't -- I've lost my
10 vocation. If you have those skills you can get employed again.
11 There's so many people out there looking for people that will do
12 the work, with good attitudes. And if you have a good attitude
13 and commit to showing up on time, which is a great deal of
14 success in this world, showing up and showing up sober and
15 showing up on time, and show good work habits, then you should
16 be able to accomplish -- you know, do your time, then get out
17 and don't put yourself in this position again.

18 I am certainly aware that some of the prisons COVID
19 passes, but you are a young man, you are healthy. Yes, we don't
20 know everything about this disease, but we do know for the vast
21 majority of healthy young men it's really -- it's not that
22 serious. At worst it's a bad case of the flu.

23 That's not to say it's everybody that way, but for
24 younger people without comorbidities, that is the information
25 that we have. The death rates and the hospitalization are

1 almost all -- they're for much older and much more seriously ill
2 people. You're a healthy person, so I'm satisfied: One, the
3 prison will do everything it can to protect you; but, two, even
4 if you get this lousy illness, it's not fatal, it's not going to
5 could you in. You're a healthy person and you ought to go into
6 things with that attitude. You shouldn't be, you know, over
7 concerned about that.

8 But I am satisfied, though, given this record, given
9 the fact that you've had probation, you've had opportunities and
10 you went back and committed another serious crime, that some
11 penalty is appropriate. And so that's the sentence I've
12 imposed.

13 I don't view you as frankly -- I mean, the idea that
14 you were buying a gun, I don't think you were just buying it for
15 target practice. That doesn't make sense to me. And I'm not
16 saying you were planning on shooting somebody, but it seems to
17 me you saw a need for your protection or you thought you were in
18 a position where you may need to use this. And you're
19 prohibited from having a gun because of your record. And there
20 was no reason you went out to buy a gun, especially with the
21 other obligations you had financially for your son.

22 So I think that it makes sense to impose some penalty
23 and I think I've chosen the least significant penalty based on
24 this record and the nature and circumstances of the offense.

25 I'll also impose three years of supervised release.

1 I've imposed a much lower than the guideline sentence,
2 a much lower sentence than the government, as I said, did not
3 unreasonably ask for, but -- and so I'm going to impose three
4 years of supervised release so that if you show me by your
5 conduct that you're not sincere or that sincerity does not
6 continue, then you'll be back before the Court and you'll be
7 revoked and sent back to prison. I hope that doesn't happen,
8 because I think you really -- there's no reason for you to end
9 up back where you are. If you have a good attitude like it
10 seems -- and keep that. Don't get bitter. You've got a much
11 lesser sentence than I would hope you had a reason to expect.
12 In part because of the COVID, and I recognize the punitive
13 nature part because I'm sure you're worried about things, but I
14 expect you to be out in less than a year and I expect you to go
15 back to building -- rebuilding your life and making it into
16 something positive.

17 But when I look at the need for deterrence, the need
18 for punishment, the need for protection of the public. And I
19 hope you take in this sincerely. I hope you spend that time.
20 If there's not programming, you start thinking about where you
21 wants to be in life and how you're going to avoid putting
22 yourself in this position again. And that should be -- your
23 time will pass.

24 But the conditions of supervision are set forth, or at
25 least the recommended ones, at the end of the presentence.

1 Ms. Halla-Valdes, have you gone over those with your
2 client and do you want me to read them as part of the
3 pronouncement of sentence?

4 MS. HALLA-VALDES: No, Your Honor, we did review them
5 and we would waive formal reading at this time.

6 THE COURT: All right. Normally, Mr. Beaudry, as part
7 of the pronouncement of sentence I would read each of the
8 conditions. Your attorney said you've gone over them, you don't
9 have objection, and you waive reading. Is that right?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Okay. And I adopt those conditions then.
12 I adopt the rationale for those conditions. Those are the
13 conditions that I impose and they'll be attached to the judgment
14 and you'll receive a copy at the time of your discharge.

15 I'll also impose the \$100 special assessment. If
16 there are any other counts in the indictment, those are ordered
17 dismissed.

18 I'll recommend that if he's placed in custody it be as
19 close to his home as possible so he can have family support.

20 I'll also have no objection to part of the sentencing
21 being served at a halfway house under Bureau of Prison
22 regulations, however they deem it appropriate.

23 Mr. Beaudry, you have the right to appeal your
24 conviction or your sentence. Your attorney will talk to you
25 about possible grounds to appeal. If you cannot afford the cost

1 of an appeal the clerk will assist you so you can file in forma
2 pauperis and not have to pay those costs.

3 If you choose to appeal you have to file a notice of
4 appeal, and that has to be filed within 14 days after the entry
5 of judgment. If you fail to file a timely notice of appeal, you
6 would lose that right.

7 Lastly, I'm going to allow voluntary surrender. I'm a
8 little concerned. You're to follow the rules of Pretrial
9 Services and that means report for drug testing. Report to your
10 agent. If you miss, you might -- a warrant would probably be
11 issued for your arrest and then you're in custody at the jail
12 and it will hurt your security classification. It will not work
13 well. So you really want to follow those conditions. But you
14 continue to follow those conditions.

15 I'm going to give a reporting date of about 45 days
16 away from today. I am told that if a reporting date is given,
17 that the Bureau of Prisons will honor that.

18 I'll order report on or before Wednesday, November
19 11th. Or make it Tuesday, November 10th. That's after your
20 period of quarantine. And if you need to see -- if you want to
21 go see a doctor, fine. If there's anything that comes up that
22 the Bureau of Prisons or the Court should know, keep in touch
23 with your attorney. Follow your conditions of release through
24 that time.

25 Is there anything further?

1 THE DEFENDANT: Is this time, is it going to be set in
2 a county jail near me or do I have to sit in the penitentiary
3 near me?

4 THE COURT: You'll be told where to report. It will
5 likely be in a federal prison.

6 THE DEFENDANT: Okay.

7 THE COURT: If you're fortunate it will be at Oxford,
8 not that far away.

9 THE DEFENDANT: Okay.

10 THE COURT: But Mr. Koehler will work with you and
11 convey that to you. You can talk more with your attorney or
12 Mr. Koehler afterwards and they can answer those types of
13 questions.

14 I've recommended Oxford. I recommend a facility as
15 close to your home as possible. But this is not a Huber
16 sentence. We don't -- that's not the typical sentence in
17 federal court. That's another reason why it's significantly
18 less, but it's a more onerous sentence than the Huber sentences
19 you've received in the past.

20 THE DEFENDANT: Is there any ways of doing like a GPS
21 sentence?

22 THE COURT: You can talk with your attorney
23 afterwards. Anything further?

24 MS. HALLA-VALDES: No, Your Honor.

25 THE COURT: Thank you all. This matter then is

1 concluded.

2 THE DEFENDANT: Thank you.

3 (Proceedings concluded at 4:45 p.m.)

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C E R T I F I C A T E

I, JOHN T. SCHINDHELM, RMR, CRR, Official Court Reporter and Transcriptionist for the United States District Court for the Eastern District of Wisconsin, do hereby certify that the foregoing pages are a true and accurate transcription of the audio file provided in the aforementioned matter to the best of my skill and ability.

Signed and Certified December 7, 2020.

/s/John T. Schindhelm

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